

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Forbearance of Iowa)	CC Docket No. 01-331
Telecommunications Services, Inc.)	
d/b/a Iowa Telecom pursuant to)	
47 U.S.C. § 160(c))	
)	

WORLDCOM OPPOSITION

Pursuant to the Commission’s December 6, 2001 Public Notice, WorldCom, Inc. (WorldCom) hereby submits its opposition to the petition for forbearance filed by Iowa Telecommunications Services, Inc. (Iowa Telecom) on November 26, 2001.

In its petition for forbearance, Iowa Telecom asks the Commission to forbear from applying the rule that required price cap carriers to make an election within 60 days after the release of the CALLS Order¹ to choose the CALLS plan or to set interstate access rates at forward-looking cost levels (the “60 day rule”). Alternatively, Iowa Telecom requests that the Commission forbear from enforcing the target rate set for the Average Traffic Sensitive (ATS) charge prescribed in Section 61.3(qq) of the Commission’s rules, and allow Iowa Telecom to reset its ATS at cost-based levels.

The Commission should deny Iowa Telecom’s petition for forbearance. Iowa Telecom’s petition is based on the premise that it was taken by surprise by the adoption

¹Access Charge Reform, Sixth Report and Order, CC Docket No. 96-262, released May 31, 2000 (CALLS Order).

of the CALLS plan, and that the provisions of the CALLS plan disadvantaged Iowa Telecom. But if Iowa Telecom was willing to become a price cap carrier under the old price cap rules, then there is no basis for its claim that it was disadvantaged by the adoption of CALLS. Whereas the old price cap rules applied a 6.5 percent X-factor every year, the CALLS plan applies that X-factor only until the ILEC reaches the target rate. Consequently, the revenue available to Iowa Telecom under the CALLS plan does not differ appreciably from, and in all likelihood is greater than, the revenue that Iowa Telecom would have received under the old price cap rules.

As is clear from Iowa Telecom's petition, Iowa Telecom's real problem is not the CALLS rules, but that it is facing competition from CLECs.² Iowa Telecom has been complaining about CLEC competition in a variety of proceedings at both the state and federal level.³ To the extent that Iowa Telecom's revenues are lower than Iowa Telecom's investors and management projected when the exchanges were acquired from GTE, that shortfall is due to competition, not the adoption of the CALLS plan or Iowa Telecom's decision to elect the CALLS rules over the cost study option. But revenue shortfalls resulting from competition do not justify a rate increase; as the D.C. Circuit has noted, the Commission has stated that its goal is "to promote competition . . . , not to protect competitors."⁴

²Petition at 9, 21-25.

³Petition at 21-22 n. 43; See also Iowa Telecom, Opposition to Petition for Reconsideration and/or Clarification, CC Docket No. 96-262, July 23, 2001.

⁴CompTel v. FCC, 87 F.3d 522, 530 (citing WATS Related and Other Amendments of Part 69 of the Commission's Rules, 59 RR 2d 1418, 1434-35 (1986)).

Iowa Telecom suggests that it should be given a “second chance” to make the election contemplated by the CALLS Order. But there are two problems with that argument. First, assuming arguendo that Iowa Telecom made the wrong choice when it elected the CALLS plan over the cost study option, then that choice was nothing more than a bad business decision. After all, the Commission specifically designed the cost study option for Iowa Telecom and other carriers that did not participate in the CALLS negotiations.⁵ Iowa Telecom’s failure to take advantage of the opportunity it was given by the Commission does not justify forbearance. As the Commission explained in its discussion of the cost study option, “[s]o long as the Commission has offered [price cap ILECs] the opportunity to select a regulatory alternative to the CALLS proposal that is lawful, [the Commission] has provided such carriers with a meaningful choice.”⁶

⁵CALLS Order at ¶ 56.

⁶Access Charge Reform, Order, CC Docket No. 96-262, released July 14, 2000, at ¶ 9 (U S West Stay Order).

There is no merit to Iowa Telecom's claim that its poor business decision can be excused by its lack of familiarity with the exchanges it had purchased. As an initial matter, Iowa Telecom never sought a waiver of the 60-day rule. And, if Iowa Telecom was as ignorant of the cost characteristics of its exchanges as it now claims, then that only emphasizes that Iowa Telecom's election of the CALLS plan was simply a bad business decision. In the absence of sufficient knowledge about Iowa Telecom's costs, prudent managers would have elected the cost study option, which guaranteed recovery of Iowa Telecom's forward-looking costs. While Iowa Telecom now claims to regret its decision to gamble that the CALLS rates would provide above-cost revenues, the Commission has no obligation to insulate Iowa Telecom from the consequences of that gamble.⁷

Second, a close reading of Iowa Telecom's petition shows that Iowa Telecom is not, in fact, seeking a second chance to make the election contemplated by the CALLS Order. Whereas the cost study option outlined in the CALLS Order required the Commission to reset all of a carrier's rates, including common line and special access rates, at forward-looking cost, and also required the Commission to design a price cap plan and X-factor for that carrier,⁸ Iowa Telecom is proposing only to reset its ATS rates.

In essence, then, Iowa Telecom's petition is nothing more than a request for an increase in switched access rates. Iowa Telecom is seeking to compensate for its

⁷US West Stay Order at ¶ 13.

⁸CALLS Order at ¶¶ 59-60.

competitive losses by increasing the rates assessed to its captive customers -- interexchange carriers. But that request cannot meet the Section 10 forbearance test.

First, the \$0.0095 cents/minute target rate remains necessary to ensure that Iowa Telecom's rates remain just and reasonable. Iowa Telecom's claim that the \$0.0095 cap is not necessary to ensure that rates are just and reasonable, provided that ATS rates are set at cost,⁹ ignores the fact that the \$0.0095/minute target rate is only one piece of the larger package of CALLS regulations that determine Iowa Telecom's interstate access revenues. Iowa Telecom has presented no evidence that its existing rates, taken as a whole, do not represent a "reasonable balancing" of the "investor interest in maintaining financial integrity and access to capital markets and the consumer interest in being charged non-exploitative rates."¹⁰

Because the CALLS plan "is most appropriately judged as a single, cohesive proposal,"¹¹ an increase in ATS rates would necessarily affect the balance that contributed to the Commission's finding that the CALLS plan was within the zone of reasonableness.¹² For that reason, the CALLS Order contemplated that, if an ILEC elected the cost study option, all of the ILEC's rates, including common line and special access rates, would be reinitialized based on forward-looking cost.¹³ If the Commission

⁹Petition at 35.

¹⁰Jersey Cent. Power & Light v. FERC, 810 F.2d 1168, 1177-1178 (D.C. Cir. 1987).

¹¹CALLS Order at ¶ 49.

¹²CALLS Order at ¶ 48.

¹³CALLS Order at ¶¶ 59-60.

allows Iowa Telecom to reset its ATS rates, then it should permit that resetting only as part of the comprehensive evaluation contemplated by the CALLS Order, including the establishment of a price cap plan and X-factor tailored to Iowa Telecom.¹⁴

¹⁴CALLS Order at ¶ 59.

In any event, there is no merit to Iowa Telecom's claim that the \$0.0095/min CALLS target rate is substantially below Iowa Telecom's forward-looking cost of providing ATS services. The approximately 3 cents per minute cost estimate that Iowa Telecom has estimated using the Synthesis Model has been inflated by several methodological errors in both the switching¹⁵ and transport¹⁶ estimates. When those errors are corrected, the CALLS plan's \$0.0095 target rate and Synthesis Model

¹⁵Iowa Telecom has inflated local switching costs by including certain "LS Trunk Port" costs derived using the Synthesis Model's estimate of line port costs. For example, the Iowa Telecom Services Group worksheet includes 0.003134/min in "LS Trunk Port" costs whose derivation is shown on the next page as "Additional Calculations/ End Office Switching / Line Port" costs. Not only is it inappropriate to use line port costs to estimate trunk port costs, but Iowa Telecom fails to recognize that in the Synthesis Model the trunk port costs are already included in the "non-line port" component of local switching (which, in the case of Iowa Telecom Service Group, is \$0.00731.) Accordingly, the \$0.003134/min in "LS Trunk Port" costs must be excluded from the local switching cost estimate.

¹⁶Iowa Telecom has inflated tandem transport costs with its convoluted methodology for converting the common transport costs produced by the Synthesis Model to the ATS rate structure. The common transport cost and tandem termination cost should simply be multiplied by the number of tandem switching minutes (191,481,296, in the case of the Iowa Telecom Service Group).

estimates are sufficiently close to show that the CALLS plan's target rate is reasonable, particularly in the context of the CALLS plan as a whole.

Second, permitting Iowa Telecom to increase its switched access rates would not be in the public interest. In its petition, Iowa Telecom makes clear that its real objective is to increase its switched access rates to the levels charged by CLECs operating in Iowa Telecom's territory.¹⁷ But that objective is directly contrary to the CLEC Access Charge Order's policy of decreasing CLEC switched access charges to ILEC levels.¹⁸ Permitting Iowa Telecom to increase its rates to CLEC levels, and thus potentially forestalling the decline in CLEC switched access rates that should result from the adoption of the CLEC Access Charge Order, is not in the public interest.

For the reasons stated herein, the Commission should deny Iowa Telecom's petition for forbearance.

Respectfully submitted,
WORLDCOM, INC.

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¹⁷Petition at 38-39.

¹⁸Access Charge Reform, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) (CLEC Access Charge Order).

January 4, 2002

CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing Opposition were sent via first class mail to the following on this 4th Day of January, 2002.

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